

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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ALLAN J. GIBBINGS,

Plaintiff,

-against-

GENERIC PHARMACEUTICAL SERVICES INC.,

Defendant.  
-----X

Docket # 5454/11

ANSWER

JURY TRIAL DEMANDED

Defendant, Generic Pharmaceutical Services Inc., by their attorneys, RIVKIN RADLER LLP, respectfully submits the following upon information and belief as and for their answer to plaintiff's complaint:

FIRST: Defendant denies the allegation contained in paragraphs numbered "8", "9", "10", "11", "12", "13", "15" and "16" of the plaintiff's complaint.

SECOND: Defendant denies having knowledge or information sufficient to form a belief as to the allegation contained in paragraphs numbered "1", "2", "3", "4", "5" and "7" of the plaintiff's complaint and refers all questions of law and fact to this Honorable Court and the triers of fact at the trial of this action.

ANSWERING THE FIRST CAUSE OF ACTION

THIRD: Defendant denies the allegation contained in paragraphs numbered "20", "21", "22" and "23" of the plaintiff's complaint.

FOURTH: Defendant denies having knowledge or information sufficient to form a belief as to the allegation contained in paragraphs numbered "17", "18" and "19" of the

plaintiff's complaint and refers all questions of law and fact to this Honorable Court and the triers of fact at the trial of this action.

ANSWERING THE SECOND CAUSE OF ACTION

FIFTH: Defendant denies the allegation contained in paragraphs numbered "27", "28" and "29" of the plaintiff's complaint.

SIXTH: Defendant denies having knowledge or information sufficient to form a belief as to the allegation contained in paragraphs numbered "24", "25" and "26" of the plaintiff's complaint and refers all questions of law and fact to this Honorable Court and the triers of fact at the trial of this action.

ANSWERING THE THIRD CAUSE OF ACTION

SEVENTH: Defendant denies the allegation contained in paragraphs numbered "31", "32" and "33" of the plaintiff's complaint.

EIGHTH: Defendant denies having knowledge or information sufficient to form a belief as to the allegation contained in paragraph numbered "30" of the plaintiff's complaint and refers all questions of law and fact to this Honorable Court and the triers of fact at the trial of this action.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

NINTH: The Complaint, and each claim purported to be alleged therein, is barred, in whole or in part, by the applicable statute of limitations.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

TENTH: The Complaint is barred, in whole or in part, pursuant to *inter alia*, 29 U.S.C. § 258 (a) and 259 (a), as Defendants have acted in good faith and in reliance upon applicable regulations and interpretations with regard to some or all of the acts or omissions alleged in the Complaint.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

ELEVENTH: New York Wage Orders apply the exemptions of the FLSA, barring, in whole or in part, the prosecution of this action.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

TWELFTH: The Complaint, and each claim purported to be alleged therein, is barred, in whole or in part, by the doctrines of laches.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

THIRTEENTH: Plaintiff is exempt under the FLSA and/or New York State Labor Law.

WHEREFORE, defendant, Generic Pharmaceutical Services Inc., demands judgment dismissing the plaintiff's complaint herein, together with the costs and disbursements of this action.

DATED: Uniondale, New York  
February 17, 2012

Yours, etc.,

RIVKIN RADLER LLP  
Attorneys for Defendant  
GENERIC PHARMACEUTICAL  
SERVICES INC.

By: /s/ **Kenneth A. Novikoff**  
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